(2003) 08 AHC CK 0154

In the Allahabad High Court

Case No : Sales Tax Revision No. 1048 of 1992

Commissioner, Sales Tax — APPELLANT

Vs

Arvind Agencies — RESPONDENT

Date of Decision : 19-08-2003

Acts Referred:

Citation : (2004) 137 STC 186

Hon'ble Judges : Prakash Krishna, J

Bench : Single Bench

Advocate : Piyush Agrawal, for the Respondent

Final Decision : Dismissed

Judgement

Prakash Krishna, J.—This revision is directed against the order dated January 23, 1992 passed by the Sales Tax Tribunal, Moradabad. The dispute relates to the assessment year 1985-86. The controversy raised by the Commissioner, Sales Tax in this revision is regarding the taxability of Borax. According to him it is taxable as unclassified item. The Tribunal has held that Borax is taxable as mineral at the rate of four per cent.

2. Heard the counsel for the parties and perused the record. The controversy involved in the present revision has been set at rest by this Court in Commissioner of Sales Tax v. Vanaspati Agents 1991 UPTC 1320. It has been held that Borax is covered by a Notification No. ST-II-4949/X-10(2)-74 dated May 30, 1975. The relevant portion of the said notification is quoted below :--

" ''M'' stands for sale by manufacturer in Uttar Pradesh.

''I'' stands for sale by the importer in Uttar Pradesh.

____ SI. Description of goods Point at which tax Rate of tax No. shall be levied ____ I II III IV ________________________________

_ 1. All kind of minerals, ''M'' or T 2 per cent ores, metals and alloys except those included in any other notification issued under the Act.

3. It has been held that Borax is a mineral. The learned Standing Counsel could not point out anything otherwise.

4. In view of the above there is no merit in the revision. The revision is dismissed.